

CODIFICATION

Section is comprised of a part of section 25A, formerly section 25(a), which was added to act Dec. 23, 1913, ch. 6, by act Dec. 24, 1919.

§ 628. Extension of corporate existence

[See main edition for text]

(Dec. 23, 1913, ch. 6, § 25A (par.), formerly § 25(a), as added Dec. 24, 1919, ch. 18, 41 Stat. 378; amended Aug. 23, 1935, ch. 614, title II, § 203(a), 49 Stat. 704; renumbered § 25A, Dec. 19, 1991, Pub. L. 102-242, title I, § 142(e)(2), 105 Stat. 2281.)

CODIFICATION

Section is comprised of a part of section 25A, formerly section 25(a), which was added to act Dec. 23, 1913, ch. 6, by act Dec. 24, 1919.

§ 629. Conversion of banking corporations into Federal corporations; procedure

[See main edition for text]

(Dec. 23, 1913, ch. 6, § 25A (par.), formerly § 25(a), as added Dec. 24, 1919, ch. 18, 41 Stat. 378; amended Aug. 23, 1935, ch. 614, title II, § 203(a), 49 Stat. 704; renumbered § 25A, Dec. 19, 1991, Pub. L. 102-242, title I, § 142(e)(2), 105 Stat. 2281.)

CODIFICATION

Section is comprised of a part of section 25A, formerly section 25(a), which was added to act Dec. 23, 1913, ch. 6, by act Dec. 24, 1919.

§ 630. Offenses by officers of corporation; punishment

[See main edition for text]

(Dec. 23, 1913, ch. 6, § 25A (par.), formerly § 25(a), as added Dec. 24, 1919, ch. 18, 41 Stat. 378; amended Aug. 23, 1935, ch. 614, title II, § 203(a), 49 Stat. 704; renumbered § 25A, Dec. 19, 1991, Pub. L. 102-242, title I, § 142(e)(2), 105 Stat. 2281.)

CODIFICATION

Section is comprised of a part of section 25A, formerly section 25(a), which was added to act Dec. 23, 1913, ch. 6, by act Dec. 24, 1919.

§ 631. False representations as to liability of United States for acts of corporation; punishment

[See main edition for text]

(Dec. 23, 1913, ch. 6, § 25A (par.), formerly § 25(a), as added Dec. 24, 1919, ch. 18, 41 Stat. 378, and renumbered § 25A, Dec. 19, 1991, Pub. L. 102-242, title I, § 142(e)(2), 105 Stat. 2281.)

CODIFICATION

Section is comprised of a part of section 25A, formerly section 25(a), which was added to act Dec. 23, 1913, ch. 6, by act Dec. 24, 1919.

§ 632. Jurisdiction of United States courts; disposition by banks of foreign owned property

[See main edition for text]

(Dec. 23, 1913, ch. 8, § 25B, formerly § 25(b), as added June 18, 1933, ch. 89, § 15, 48 Stat. 184;

amended Apr. 7, 1941, ch. 43, § 2, 55 Stat. 131; renumbered § 25B, Dec. 19, 1991, Pub. L. 102-242, title I, § 142(e)(3), 105 Stat. 2281.)

CODIFICATION

Section was enacted as section 25B, formerly section 25(b), of the Federal Reserve Act, and not as part of section 25A of that Act which comprises this subchapter.

CHAPTER 6A—EXPORT-IMPORT BANK OF THE UNITED STATES

SUBCHAPTER I—GENERAL PROVISIONS

Sec.

- 635c. Repealed.
- 635e. Aggregate loan, guarantee, and insurance authority.
 - (a) Limitation on outstanding amounts.
 - (b) Presidential determination.
- 635i to 635i-2. Repealed.
- 635i-4. Repealed.
- 635i-5. Environmental policy and procedures.
 - (a) Environmental effects consideration.
 - (b) Use of Bank programs to encourage certain exports.
 - (c) Inclusion in report to Congress.
 - (d) Interpretation.
- 635i-6. Debt reduction; Enterprise for the Americas Initiative.
 - (a) Definitions.
 - (b) Eligibility for benefits under the Facility.
 - (c) Loans eligible for sale, reduction, or cancellation.
 - (d) Deposit of proceeds.
 - (e) Eligible purchasers.
 - (f) Debtor consultation.
 - (g) Authorization of appropriations.
- 635i-7. Cooperation on export financing programs.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in title 22 sections 2185, 2371, 2394, 2398.

SUBCHAPTER I—GENERAL PROVISIONS

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 635a-3, 635m of this title; title 22 sections 2184, 2291.

§ 635. Powers and functions of Bank

- (a) General banking business; use of mails; publication of documents, reports, contracts, etc.; use of assets and allocated or borrowed money; payment of dividends; medium-term financing; dissemination of information; enhancement of medium-term program

(1) There is created a corporation with the name Export-Import Bank of the United States, which shall be an agency of the United States of America. The objects and purposes of the bank shall be to aid in financing and to facilitate exports and imports and the exchange of commodities and services between the United States or any of its Territories or insular possessions and any foreign country or the agencies or nationals thereof. In connection with and in furtherance of its objects and purposes, the bank is authorized and empowered to do a general banking business except that of circulation; to receive deposits; to purchase, discount, rediscount, sell, and negotiate, with or without its endorsement or guaranty, and to guarantee

notes, drafts, checks, bills of exchange, acceptances, including bankers' acceptances, cable transfers, and other evidences of indebtedness; to guarantee, insure, coinsure, and reinsure against political and credit risks of loss; to purchase, sell, and guarantee securities but not to purchase with its funds any stock in any other corporation except that it may acquire any such stock through the enforcement of any lien or pledge or otherwise to satisfy a previously contracted indebtedness to it; to accept bills and drafts drawn upon it; to issue letters of credit; to purchase and sell coin, bullion, and exchange; to borrow and to lend money; to perform any act herein authorized in participation with any other person, including any individual, partnership, corporation, or association; to adopt, alter, and use a corporate seal, which shall be judicially noticed; to sue and to be sued, to complain and to defend in any court of competent jurisdiction; to represent itself or to contract for representation in all legal and arbitral proceedings outside the United States; and the enumeration of the foregoing powers shall not be deemed to exclude other powers necessary to the achievement of the objects and purposes of the bank. The bank shall be entitled to the use of the United States mails in the same manner and upon the same conditions as the executive departments of the Government. The Bank is authorized to publish or arrange for the publication of any documents, reports, contracts, or other material necessary in connection with or in furtherance of its objects and purposes without regard to the provisions of section 501 of title 44 whenever the Bank determines that publication in accordance with the provisions of such section would not be practicable. Subject to regulations which the Bank shall issue pursuant to section 553 of title 5, the Bank may impose and collect reasonable fees to cover the costs of conferences and seminars sponsored by, and publications provided by, the Bank, and may accept reimbursement for travel and subsistence expenses incurred by a director, officer, or employee of the Bank, in accordance with subchapter I of chapter 57 of title 5. Amounts received under the preceding sentence shall be credited to the fund which initially paid for such activities and shall be offset against the expenses of the Bank for such activities. The bank is authorized to use all of its assets and all moneys which have been or may hereafter be allocated to or borrowed by it in the exercise of its functions. Net earnings of the bank after reasonable provision for possible losses shall be used for payment of dividends on capital stock. Any such dividends shall be deposited into the Treasury as miscellaneous receipts.

[See main edition for text of (2)]

(3) **ENHANCEMENT OF MEDIUM-TERM PROGRAM.**—To enhance the medium-term financing program established pursuant to paragraph (2), the Bank shall establish measures to—

(A) improve the competitiveness of the Bank's medium-term financing and ensure that its medium-term financing is fully competitive with that of other major official export credit agencies;

(B) ease the administrative burdens and procedural and documentary requirements imposed on the users of medium-term financing;

(C) attract the widest possible participation of private financial institutions and other sources of private capital in the medium-term financing of United States exports; and

(D) render the Bank's medium-term financing as supportive of United States exports as is its Direct Loan Program.

(b) Guarantees, insurance, and extension of credit functions; competitive with Government-supported rates and terms and conditions of foreign exporting countries; survey and report; interest rates; private capital encouragement; national interest determinations; delivery of United States services in international commerce; small business concern encouragement; coverage of losses by Foreign Credit Insurance Association; loans to Union of Soviet Socialist Republics for fossil fuel research, etc.; nuclear safeguards violations resulting in limitations on exports and credit; defense article credit sales to less developed countries; amount outstanding; supplementation of Commodity Credit Corporation programs; prohibitions respecting Republic of South Africa; limitations on authority of Bank; prohibition relating to Angola

(1)(A) It is the policy of the United States to foster expansion of exports of manufactured goods, agricultural products, and other goods and services, thereby contributing to the promotion and maintenance of high levels of employment and real income and to the increased development of the productive resources of the United States. To meet this objective in all its programs, the Export-Import Bank is directed, in the exercise of its functions, to provide guarantees, insurance, and extensions of credit at rates and on terms and other conditions which are fully competitive with the Government-supported rates and terms and other conditions available for the financing of exports of goods and services from the principal countries whose exporters compete with United States exporters. The Bank shall, in cooperation with the export financing instrumentalities of other governments, seek to minimize competition in government-supported export financing and shall, in cooperation with other appropriate United States Government agencies, seek to reach international agreements to reduce government subsidized export financing. The Bank shall, on a¹ annual basis, report to the appropriate committees of Congress its actions in complying with these directives. In this report the Bank shall include a survey of all other major export-financing facilities available from other governments and government-related agencies through which foreign exporters compete with the United States exporters and indicate in specific terms the ways in which the Bank's rates, terms, and other conditions compare with those offered from such other governments directly or indirectly. Further, the Bank shall at the same time survey a representative number of

¹ So in original. Probably should be "an".

United States exporters and United States commercial lending institutions which provide export credit to determine their experience in meeting financial competition from other countries whose exporters compete with United States exporters. The results of this survey shall be included as part of the annual report required by this subparagraph. The Bank shall include in the annual report a description of its role in the implementation of the strategic plan prepared by the Trade Promotion Coordinating Committee in accordance with section 4727 of title 15.

(B) It is further the policy of the United States that loans made by the Bank in all its programs shall bear interest at rates determined by the Board of Directors, consistent with the Bank's mandate to support United States exports at rates and on terms and conditions which are fully competitive with exports of other countries, and consistent with international agreements. For the purpose of the preceding sentence, rates and terms and conditions need not be identical in all respects to those offered by foreign countries, but should be established so that the effect of such rates, terms, and conditions for all the Bank's programs, including those for small businesses and for medium-term financing, will be to neutralize the effect of such foreign credit on international sales competition. The Bank shall consider its average cost of money as one factor in its determination of interest rates, where such consideration does not impair the Bank's primary function of expanding United States exports through fully competitive financing. The Bank may not impose a credit application fee unless (i) the fee is competitive with the average fee charged by the Bank's primary foreign competitors, and (ii) the borrower or the exporter is given the option of paying the fee at the outset of the loan or over the life of the loan and the present value of the fee determined under either such option is the same amount. It is also the policy of the United States that the Bank in the exercise of its functions should supplement and encourage, and not compete with, private capital; that the Bank, in determining whether to provide support for a transaction under the loan, guarantee, or insurance program, or any combination thereof, shall consider the need to involve private capital in support of United States exports as well as the cost of the transaction as calculated in accordance with the requirements of the Federal Credit Reform Act of 1990 [2 U.S.C. 661 et seq.]; that the Bank shall accord equal opportunity to export agents and managers, independent export firms, export trading companies, and small commercial banks in the formulation and implementation of its programs; that the Bank should give emphasis to assisting new and small business entrants in the agricultural export market, and shall, in cooperation with other relevant Government agencies, including the Commodity Credit Corporation, develop a program of education to increase awareness of export opportunities among small agribusinesses and cooperatives; that loans, so far as possible consistent with the carrying out of the purposes of subsection (a) of this section, shall

generally be for specific purposes, and, in the judgment of the Board of Directors, offer reasonable assurance of repayment; and that in authorizing any loan or guarantee, the Board of Directors shall take into account any serious adverse effect of such loan or guarantee on the competitive position of United States industry, the availability of materials which are in short supply in the United States, and employment in the United States, and shall give particular emphasis to the objective of strengthening the competitive position of United States exporters and thereby of expanding total United States exports. Only in cases where the President determines that such action would be in the national interest where such action would clearly and importantly advance United States policy in such areas as international terrorism, nuclear proliferation, environmental protection and human rights, should the Export-Import Bank deny applications for credit for nonfinancial or noncommercial considerations.

[See main edition for text of (C) and (D)]

(E) *[See main edition for text of (i) to (iv)]*

(v) To assure that the purposes of clauses (i) and (ii) of this subparagraph are carried out, the Bank shall make available, from the aggregate loan, guarantee, and insurance authority available to it, an amount to finance exports directly by small business concerns (as defined under section 632 of title 15) which shall be not less than 10 percent of such authority for each fiscal year.

[See main edition for text of (vi) to (ix), (F) and (G)]

(H)(i) It is further the policy of the United States to foster the development of democratic institutions and market economies in countries seeking such development, and to assist the export of high technology items to such countries.

(ii) In exercising its authority, the Bank shall develop a program for providing guarantees and insurance with respect to the export of high technology items to countries making the transition to market based economies, including eligible East European countries (within the meaning of section 4^a of the Support For East European Democracy (SEED) Act of 1989).

(iii) As part of the ongoing marketing and outreach efforts of the Bank, the Bank shall, to the maximum extent practicable, inform high technology companies, particularly small business concerns (as such term is defined in section 632 of title 15), about the programs of the Bank for United States companies interested in exporting high technology goods to countries making the transition to market based economies, including any eligible East European country (within the meaning of section 4^a of the Support For East European Democracy (SEED) Act of 1989).

(iv) In carrying out clause (iii), the Bank shall—

* See References in Text note below.

(I) work with other agencies involved in export promotion and finance; and

(II) invite State and local governments, trade centers, commercial banks, and other appropriate public and private organizations to serve as intermediaries for the outreach efforts.

(2) PROHIBITION ON AID TO MARXIST-LENINIST COUNTRIES.—

[See main edition for text of (A)]

(B) MARXIST-LENINIST COUNTRY DEFINED.—

(I) IN GENERAL.—For purposes of this paragraph, the term "Marxist-Leninist country" means any country that maintains a centrally planned economy based on the principles of Marxism-Leninism, or is economically and militarily dependent on any other such country.

(II) SPECIFIC COUNTRIES DEEMED TO BE MARXIST-LENINIST.—Unless otherwise determined by the President in accordance with subparagraph (C), the following countries are deemed to be Marxist-Leninist countries for purposes of this paragraph:

(I) Cambodian People's Republic.

(II) Democratic People's Republic of Korea.

(III) Democratic Republic of Afghanistan.

(IV) Lao People's Democratic Republic.

(V) People's Republic of China.

(VI) Republic of Cuba.

(VII) Socialist Federal Republic of Yugoslavia.

(VIII) Socialist Republic of Vietnam.

(IX) Tibet.

[See main edition for text of (C) and (D)]

(3) Except as provided by the fourth sentence of this paragraph, no loan or financial guarantee or general guarantee or insurance facility or combination thereof (i) in an amount which equals or exceeds \$100,000,000, or (ii) for the export of technology, fuel, equipment, materials, or goods or services to be used in the construction, alteration, operation, or maintenance of nuclear power, enrichment, reprocessing, research, or heavy water production facilities, shall be finally approved by the Board of Directors of the Bank, unless in each case the Bank has submitted to the Congress with respect to such loan, financial guarantee, or combination thereof, a detailed statement describing and explaining the transaction, at least 25 days of continuous session of the Congress prior to the date of final approval. For the purpose of the preceding sentence, continuity of a session of the Congress shall be considered as broken only by an adjournment of the Congress sine die, and the days on which either House is not in session because of an adjournment of more than 3 days to a day certain shall be excluded in the computation of the 25 day period referred to in such sentence. Such statement shall contain—

[See main edition for text of (A) and (B)]

If the Bank submits a statement to the Congress under this paragraph and either House of

Congress is in an adjournment for a period which continues for at least ten days after the date of submission of the statement, then any such loan or guarantee or combination thereof may, subject to the second sentence of this paragraph, be finally approved by the Board of Directors upon the termination of the twenty-five-day period referred to in the first sentence of this paragraph or upon the termination of a thirty-five-calendar-day period (which commences upon the date of submission of the statement), whichever occurs sooner.

[See main edition for text of (4) and (5)]

(6)(A) The Bank shall not guarantee, insure, or extend credit, or participate in an extension of credit in connection with any credit sale of defense articles and defense services to any country.

(B) Subparagraph (A) shall not apply to any sale of defense articles or services if—

[See main edition for text of (i) and (ii)]

(iii) section 2291(e) of title 22 does not apply with respect to the purchasing country;

(iv) the President determines, in accordance with subparagraph (C), that the sale is in the national interest of the United States; and

(v) the Bank determines that, notwithstanding the provision of a guarantee or insurance for the sale, not more than 5 percent of the guarantee and insurance authority available to the Bank in any fiscal year will be used by the Bank to support the sale of defense articles or services.

(C) In determining whether a sale of defense articles or services would be in the national interest of the United States, the President shall take into account whether the sale would—

(i) be consistent with the anti-narcotics policy of the United States;

(ii) involve the end use of a defense article or service in a major illicit drug producing or major drug-transit country (as determined under section 2291(j)(h) or 2291(e), as appropriate, of title 22); and

(iii) be made to a country with a democratic form of government.

(D)(i) The Board shall not give approval to guarantee or insure a sale of defense articles or services unless—

(I) the President determines, in accordance with subparagraph (C), that it is in the national interest of the United States for the Bank to provide such guarantee or insurance;

(II) the President determines, after consultation with the Assistant Secretary of State for Human Rights and Humanitarian Affairs, that the purchasing country has complied with all restrictions imposed by the United States on the end use of any defense articles or services for which a guarantee or insurance was provided under subparagraph (B), and has not used any such defense articles or services to engage in a consistent pattern of gross violations of internationally recognized human rights; and

(III) such determinations have been reported to the Speaker and the Committee on

Banking, Finance and Urban Affairs of the House of Representatives, and to the Committee on Banking, Housing, and Urban Affairs and the Committee on Foreign Relations of the Senate, not less than 25 days of continuous session of the Congress before the date of such approval.

(ii) For purposes of clause (i), continuity of a session of the Congress shall be considered as broken only by an adjournment of the Congress sine die, and the days on which either House is not in session because of an adjournment of more than 3 days to a day certain shall be excluded in the computation of the 25-day period referred to in such clause.

[See main edition for text of (E) and (F)]

(G) As used in subparagraphs (B), (C), (D), and (F), the term "defense articles or services" means articles, services, and related technical data that are designated as defense articles and defense services pursuant to sections 38 and 47(7) of the Arms Export Control Act [22 U.S.C. 2778, 2794(7)] and listed on the United States Munitions List (part 121 of title 22 of the Code of Federal Regulations).

(H) Once in each calendar quarter, the Bank shall submit a report to the Committee on Banking, Housing, and Urban Affairs of the Senate, and the Committee on Banking, Finance and Urban Affairs of the House of Representatives on all instances in which the Bank, during the reporting quarter, guaranteed, insured, or extended credit or participated in an extension of credit in connection with any credit sale of an article, service, or related technical data described in subparagraph (G) that the Bank determined would not be put to a military use. Such report shall include a description of each of the transactions and the justification for the Bank's actions.

[See main edition for text of (7) to (10)]

(11) **PROHIBITION RELATING TO ANGOLA.**—The Bank may not guarantee, insure, or extend (or participate in the extension of) credit in connection with any export of any good (other than food or an agricultural commodity) or service to the People's Republic of Angola until the President certifies to the Congress that free and fair elections have been held in Angola in which all participants have been afforded free and fair access, and that the government of Angola—

(A) is willing, and is actively seeking, to achieve an equitable political settlement of the conflict in Angola, including free and fair elections, through a mutual cease-fire and a dialogue with the opposition armed forces;

(B) has demonstrated progress in protecting internationally recognized human rights, and particularly in—

(i) ending, through prosecution or other means, involvement of members of the military and security forces in political violence and abuses of internationally recognized human rights;

(ii) vigorously prosecuting persons engaged in political violence who are connected with the government; and

(iii) bringing to justice those responsible for the abduction, torture, and murder of citizens of Angola and citizens of the United States; and

(C) has demonstrated progress in its respect for, and protection of—

(i) the freedom of the press;

(ii) the freedom of speech;

(iii) the freedom of assembly;

(iv) the freedom of association (including the right to organize for political purposes);

(v) internationally recognized worker rights; and

(vi) other attributes of political pluralism and democracy.

The President shall include in each report made pursuant to this paragraph a detailed statement with respect to each of the conditions set forth in this paragraph. This paragraph shall not be construed to impose any requirement with respect to Angola that is more restrictive than any requirement imposed by this section generally on all other countries.

(c) **Guarantees, insurance, coinsurance, and reinsurance functions; fractional charge; aggregate outstanding amount; fees and premiums; issuance, service and adjustments by agents; transferability of guarantees**

(1) The Bank shall charge fees and premiums commensurate, in the judgment of the Bank, with risks covered in connection with the contractual liability that the Bank incurs for guarantees, insurance, coinsurance, and reinsurance against political and credit risks of loss.

[See main edition for text of (2)]

(3) **TRANSFERABILITY OF GUARANTEES.**—

(A) **IN GENERAL.**—With respect to medium-term and long-term obligations insured or guaranteed by the Bank after October 15, 1986, the Bank shall authorize the unrestricted transfer of such obligations by the originating lenders or their transferees to other lenders without affecting, limiting, or terminating the guarantee or insurance provided by the Bank.

(B) **GUARANTEE COVERAGE.**—For the guarantee program provided for in this subsection, the Bank may provide up to 100 percent coverage of the interest and principal if the Board of Directors determines such coverage to be necessary to ensure acceptance of Bank guarantees by financial institutions for any transaction in any export market in which the Bank is open for business.

(d) **Equal and nondiscriminatory opportunities for domestic companies to bid for insurance**

[See main edition for text of (1)]

(2) **COMPETITIVE OPPORTUNITY FOR INSURANCE COMPANIES.**—In the case of any long-term loan or guarantee of not less than \$10,000,000, the Bank shall seek to ensure that United States insurance companies are accorded a fair and open competitive opportunity to provide insurance against risk of loss in connection with any transaction with respect to which such loan or guarantee is provided.

(3) **RESPONSIVE ACTIONS.**—If the Bank becomes aware that a fair and open competitive opportunity is not accorded to any United States insurance company in a foreign country with respect to which the Bank is considering a loan or guarantee, the Bank—

(A) may approve or deny the loan or guarantee after considering whether such action would be likely to achieve competitive access for United States insurance companies; and

(B) shall forward information regarding any foreign country that denies United States insurance companies a fair and open competitive opportunity to the Secretary of Commerce and to the United States Trade Representative for consideration of a recommendation to the President that access by such country to export credit of the United States should be restricted.

(4) **NOTICE OF APPROVAL.**—If the Bank approves a loan or guarantee with respect to a foreign country notwithstanding information regarding denial by that foreign country of competitive opportunities for United States insurance companies, the Bank shall include notice of such approval and the reason for such approval in the report on competition in officially supported export credit required under subsection (b)(1)(A) of this section.

(5) **DEFINITIONS.**—For purposes of this section—

(A) the term “United States insurance company”—

(i) includes an individual, partnership, corporation, holding company, or other legal entity which is authorized (or in the case of a holding company, subsidiaries of which are authorized) by a State to engage in the business of issuing insurance contracts or reinsuring the risk underwritten by insurance companies; and

(ii) includes foreign operations, branches, agencies, subsidiaries, affiliates, or joint ventures of any entity described in clause (i); and

(B) the term “fair and open competitive opportunity” means, with respect to the provision of insurance by a United States insurance company, that the company—

(i) has received notice of the opportunity to provide such insurance; and

(ii) has been evaluated for such opportunity on a nondiscriminatory basis.

[See main edition for text of (e)]

(f) Repealed. Pub. L. 102-429, title I, § 121(a)(4), Oct. 21, 1992, 106 Stat. 2198

(As amended Dec. 19, 1989, Pub. L. 101-240, title I, §§ 101(a), (c), (d), 102, 103 Stat. 2493-2495; Nov. 5, 1990, Pub. L. 101-513, title V, § 562(part), 104 Stat. 2031; Nov. 21, 1990, Pub. L. 101-623, § 16, 104 Stat. 3357; Oct. 28, 1991, Pub. L. 102-145, § 121(2), (3), as added Apr. 1, 1992, Pub. L. 102-266, § 102, 106 Stat. 95; Oct. 21, 1992, Pub. L. 102-429, title I, §§ 104, 105, 107, 109(a), 110-112(d), 114, 116, 121(a), 106 Stat. 2189, 2190, 2193-2196, 2198; Nov. 2, 1992, Pub. L. 102-583, §§ 6(a), (c), 12(a), (c)(1)(A), 106 Stat. 4932, 4935.)

AMENDMENT OF SUBSECTION (b)(6)(B)(iii), (C)(ii)

Pub. L. 102-583, § 6(a), Nov. 2, 1992, 106 Stat. 4932, provided that, effective after Sept. 30, 1994, subsection (b)(6)(B)(iii), (C)(ii) of this section is amended by substituting reference to section 2291k of title 22 for reference to section 2291j of title 22.

REFERENCES IN TEXT

The Federal Credit Reform Act of 1990, referred to in subsec. (b)(1)(B), is title V of Pub. L. 93-344, as added Pub. L. 101-508, title XIII, § 13201(a), Nov. 5, 1990, 104 Stat. 1388-609, which is classified generally to subchapter III (§ 661 et seq.) of chapter 17A of Title 2, The Congress. For complete classification of this Act to the Code, see Short Title of 1990 Amendment note set out under section 821 of Title 2 and Tables.

Section 4 of the Support for East European Democracy (SEED) Act of 1989, referred to in subsec. (b)(1)(H)(ii), (iii), probably means section 3 of that Act, Pub. L. 101-179, which is classified to section 5402 of Title 22, Foreign Relations and Intercourse, and which defines East European country in subsec. (c). The Act does not contain a section 4.

Section 635g(a) of this title, referred to in subsec. (b)(8), was in the original a reference to section 9(a) of this Act, meaning section 9(a) of the Export-Import Bank Act of 1945. Sections 9 and 11 of that Act were renumbered as sections 8 and 9, respectively, by Pub. L. 102-429, title I, § 121(c)(2), (3), Oct. 21, 1992, 100 Stat. 2199, and are classified to sections 635g and 035h, respectively, of this title.

AMENDMENTS

1992—Subsec. (a)(3). Pub. L. 102-429, § 121(a)(1), struck out “(A) IN GENERAL.—” before “To enhance the medium-term”, redesignated cls. (i) to (iv) as subpars. (A) to (D), respectively, and struck out former subpar. (B) which read as follows: “REPORT REQUIRED.—Not later than April 15, 1988, the Bank shall transmit a report to the Congress analyzing the measures adopted to enhance medium-term financing.”

Subsec. (b)(1)(A). Pub. L. 102-429, § 121(a)(2), added sentence at end and struck out former last sentence which read as follows: “The Bank shall also include in the annual report a description of each loan by the Bank involving the export of any product or service related to the production, refining or transportation of any type of energy or the development of any energy resource with a statement assessing the impact, if any, on the availability of such products, services, or energy supplies thus developed for use within the United States.”

Subsec. (b)(1)(B). Pub. L. 102-429, § 104, inserted after first semicolon in fifth sentence “that the Bank, in determining whether to provide support for a transaction under the loan, guarantee, or insurance program, or any combination thereof, shall consider the need to involve private capital in support of United States exports as well as the cost of the transaction as calculated in accordance with the requirements of the Federal Credit Reform Act of 1990;”

Subsec. (b)(1)(E)(v). Pub. L. 102-429, § 121(a)(3), substituted “not less than 10 percent of such authority for each fiscal year.” for “not less than—

“(I) 6 per centum of such authority for fiscal year 1984;

“(II) 8 per centum of such authority for fiscal year 1985; and

“(III) 10 per centum of such authority for fiscal year 1986 and thereafter.”

Pub. L. 102-429, § 116, inserted “directly” after “to finance exports”.

Subsec. (b)(1)(H). Pub. L. 102-429, § 114, added subpar. (H).

Subsec. (b)(2)(B). Pub. L. 102-429, § 110, amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows:

"(I) IN GENERAL.—For the purposes of this paragraph, the term 'Marxist-Leninist country' means any country which—

"(I) maintains a centrally planned economy based on the principles of Marxist-Leninism, or

"(II) is economically and militarily dependent on the Union of Soviet Socialist Republics or on any other Marxist-Leninist country.

"(II) SPECIFIC COUNTRIES DEEMED TO BE MARXIST-LENINIST.—Unless otherwise determined by the President in the manner provided in subparagraph (C), the following countries are deemed to be Marxist-Leninist countries for purposes of this paragraph:

"Cambodian People's Republic.
 "Cooperative Republic of Guyana.
 "Czechoslovak Socialist Republic.
 "Democratic People's Republic of Korea.
 "Democratic Republic of Afghanistan.
 "Estonia.
 "German Democratic Republic.
 "Hungarian People's Republic.
 "Lao People's Democratic Republic.
 "Latvia.
 "Lithuania.
 "Mongolian People's Republic.
 "People's Democratic Republic of Yemen.
 "People's Republic of Albania.
 "People's Republic of Angola.
 "People's Republic of Benin.
 "People's Republic of Bulgaria.
 "People's Republic of China.
 "People's Republic of the Congo.
 "People's Republic of Mozambique.
 "Polish People's Republic.
 "Republic of Cuba.
 "Republic of Nicaragua.
 "Socialist Ethiopia.
 "Socialist Federal Republic of Yugoslavia.
 "Socialist Republic of Romania.
 "Socialist Republic of Vietnam.
 "Surinam.
 "Tibet.

"Union of Soviet Socialist Republics (including its captive constituent republics)."

Subsec. (b)(6)(A). Pub. L. 102-583, § 12(c)(1)(A), which directed the substitution of ", except as otherwise provided in subparagraph (B)." for "designated" and all that follows through the end of the subparagraph could not be executed because the words did not appear subsequent to the amendment by Pub. L. 102-429, § 112(d)(1). See below.

Pub. L. 102-429, § 112(d)(1), struck out before period at end "designated under section 4916 of title 26 as an economically less developed country for purposes of the tax imposed by section 4911 of title 26. The prohibitions set forth in this subparagraph shall not apply with respect to any transaction the consummation of which the President determines would be in the national interest and reports such determination (within thirty days after making the same) to the Senate and House of Representatives. In making any such determination the President shall take into account, among other considerations, the national interest in avoiding arms races among countries not directly menaced by the Soviet Union or by Communist China; in avoiding arming military dictators who are denying social progress to their own peoples; and in avoiding expenditures by developing countries of scarce foreign exchange needed for peaceful economic progress".

Subsec. (b)(6)(B). Pub. L. 102-429, § 112(d)(2)(A), struck out ", and section 32 of the Arms Export Control Act," after "Subparagraph (A)".

Subsec. (b)(6)(B)(iii). Pub. L. 102-583, § 6(c)(1), substituted "section 2291(e) of title 22" for "section 2291(h)(5) of title 22".

Subsec. (b)(6)(B)(iv), (v). Pub. L. 102-429, § 112(a)(1), (2), (d)(2)(B), inserted "and" at end of cl. (iv) and sub-

stituted "articles or services." for "articles and services; and" at end of cl. (v).

Subsec. (b)(6)(B)(vi). Pub. L. 102-583, § 12(a), which directed the substitution of "1997" for "1992" in cl. (vi), could not be executed because cl. (vi) was struck out by Pub. L. 102-429, § 112(a)(3). See below.

Pub. L. 102-429, § 112(a)(3), struck out cl. (vi) which read as follows: "the sale is made on or before September 30, 1992."

Subsec. (b)(8)(C)(ii). Pub. L. 102-583, § 6(c)(2), substituted "determined under section 2291(j)(h) or 2291(e), as appropriate, of title 22" for "defined in section 2291(i) of title 22".

Subsec. (b)(6)(D)(i). Pub. L. 102-429, § 112(b), (d)(3), struck out "and" at end of subcl. (I), added subcl. (II), redesignated former subcl. (II) as (III), and substituted "determinations have" for "determination has" in subcl. (III).

Subsec. (b)(6)(D)(ii). Pub. L. 102-429, § 112(d)(4), substituted "clause" for "sentence" before period at end.

Subsec. (b)(6)(G). Pub. L. 102-429, § 112(d)(5), substituted "or services" for "and services".

Subsec. (b)(6)(H). Pub. L. 102-429, § 112(c), added subpar. (H).

Subsec. (b)(11), (12). Pub. L. 102-429, § 111, redesignated par. (12) as (11), substituted "The President" for "Notwithstanding any determination by the President under paragraph (2) or (11), the", and struck out former par. (11) which read as follows: "PROHIBITION RELATING TO ANGOLA.—Notwithstanding any determination by the President under paragraph (2), the Bank may not guarantee, insure, or extend credit (or participate in the extension of credit) in connection with any export of goods or services, except food or agricultural commodities, to the People's Republic of Angola until the President certifies to the Congress that no combatant forces or military advisors of the Republic of Cuba or of any other Marxist-Leninist country (as such term is defined in paragraph (2)(B)) remain in Angola."

Subsec. (c)(1). Pub. L. 102-429, § 109(a), amended par. (1) generally. Prior to amendment, par. (1) read as follows: "The Bank is authorized and empowered to charge against the limitations imposed by section 635e of this title, not less than 25 per centum of the related contractual liability which the Bank incurs for guarantees, insurance, coinsurance, and reinsurance against political and credit risks of loss. The aggregate amount of guarantees, insurance, coinsurance, and reinsurance which may be charged on this fractional basis pursuant to this section shall not exceed \$25,000,000,000 outstanding at any one time. Fees and premiums shall be charged in connection with such contracts commensurate, in the judgment of the Bank, with risks covered."

Subsec. (c)(3). Pub. L. 102-429, § 105, designated existing provisions as subpar. (A), inserted heading, and added subpar. (B).

Subsec. (d)(2) to (5). Pub. L. 102-429, § 107, added pars. (2) to (5) and struck out former pars. (2) and (3) which read as follows:

"(2) In furtherance of such effort, the Chairman of the Bank shall review Bank policies and programs in regard to this issue, and in coordination with the United States Trade Representative and the appropriate agencies of the Department of State, the Department of the Treasury, and the Department of Commerce, undertake actions designed to promote equal and nondiscriminatory opportunities to bid for insurance in connection with all aspects of international trade activities.

"(3) The Bank shall report to the Committee or Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate not later than May 15, 1984, regarding—

"(A) the existing obstacles to equal and nondiscriminatory bidding for insurance related to transactions assisted by the Bank;

"(B) the efforts that the Bank has taken in addressing such problems; and

"(C) recommendations for such legislative or administrative actions as the Bank considers necessary."

Subsec. (f). Pub. L. 102-429, § 121(a)(4), struck out subsec. (f) which related to interest subsidy payments.

1991—Subsec. (b)(3). Pub. L. 102-145, § 121(2), (3), as added by Pub. L. 102-266, amended par. (3) in introductory provisions by redesignating cl. (iii) as (ii) and striking out "(ii) in an amount which equals or exceeds \$25,000,000 for the export of goods or services involving research, exploration, or production of fossil fuel energy resources in the Union of Soviet Socialist Republics."

1990—Subsec. (b)(6)(B)(vi). Pub. L. 101-513 and Pub. L. 101-623 amended cl. (vi) identically, substituting "1992" for "1990".

1989—Subsec. (a)(1). Pub. L. 101-240, § 101(c), substituted "Subject to regulations which the Bank shall issue pursuant to section 553 of title 5, the Bank may" for "The Bank may" in sixth sentence and inserted before period ", and may accept reimbursement for travel and subsistence expenses incurred by a director, officer, or employee of the Bank, in accordance with subchapter I of chapter 57 of title 5" and inserted before period in seventh sentence "and shall be offset against the expenses of the Bank for such activities".

Subsec. (b)(6)(G). Pub. L. 101-240, § 101(d), substituted "subparagraphs (B), (C), (D), and (F)" for "this paragraph".

Subsec. (b)(12). Pub. L. 101-240, § 102, added par. (12).

Subsec. (f)(2). Pub. L. 101-240, § 101(a)(1), redesignated par. (3) as (2) and struck out former par. (2) which read as follows: "AUTHORITY TO MAKE PAYMENTS SUBJECT TO MINIMUM AMOUNT OF DIRECT LOAN AUTHORITY.—The authority to enter into commitments to make interest subsidy payments under paragraph (1) shall be effective for any fiscal year only if the aggregate principal amount of direct loans the Bank may obligate in such fiscal year is equal to or greater than \$700,000,000."

Subsec. (f)(3). Pub. L. 101-240, § 101(a)(1), (2), redesignated par. (4) as (3) and amended it generally. Prior to amendment, such par. read as follows:

"(A) IN GENERAL.—Subject to subparagraph (B), there are authorized to be appropriated to the Bank, for any fiscal year beginning after fiscal year 1986, such sums as may be necessary to carry out the purposes of this subsection.

"(B) BUDGET SCORING.—No amount is authorized to be appropriated for commitments to make interest subsidy payments on loans for which the Bank extends a loan guarantee commitment if any amount of such loan guarantee commitment is scored as budget authority in any estimate of budget authority prepared pursuant to any provision of the Congressional Budget and Impoundment Control Act of 1974." Former par. (3) redesignated (2).

Subsec. (f)(4), (5). Pub. L. 101-240, § 101(a)(1), (3), redesignated par. (5) as (4) and substituted "1991" for "1988". Former par. (4) redesignated (3).

EFFECTIVE DATE OF 1992 AMENDMENT

Section 6(a) of Pub. L. 102-583 provided that the amendment made by that section is effective after Sept. 30, 1994.

SHORT TITLE OF 1992 AMENDMENT

Section 1(a) of Pub. L. 102-429 provided that: "This Act [enacting sections 635i-5 to 635i-7 of this title, section 831 of Title 2, The Congress, and sections 4727 to 4729 of Title 15, Commerce and Trade, amending this section and sections 635a, 635b, 635e, 635f, and 635i-3 of this title, and sections 4052 and 4721 of Title 15, re-

pealing sections 635c, 635i to 635i-2, and 635i-4 of this title, section 713b of Title 15, and section 2772 of Title 22, Foreign Relations and Intercourse, and enacting provisions set out as notes under this section, section 635a of this title, and section 4728 of Title 15] may be cited as the 'Export Enhancement Act of 1992'."

DELEGATION OF FUNCTIONS

Functions of President under subsec. (b)(6) of this section delegated to Secretary of State by section 1(q) of Ex. Ord. No. 11958, Jan. 18, 1977, 42 F.R. 4311, as amended, set out as a note under section 2751 of Title 22, Foreign Relations and Intercourse.

DECLARATION OF POLICY

Section 101 of Pub. L. 102-429 provided that: "The Congress finds that—

"(1) as the world's largest economy, the United States has an enormous stake in the future of the global trading system;

"(2) exports are a crucial force driving the United States economy;

"(3) during 1991, the value of United States exports increased by 7.1 percent from the 1990 level to \$421,600,000,000, supporting more than 7,000,000 full-time United States jobs, and affecting the lives of all of the people of the United States;

"(4) exports also support the global strategic position of the United States;

"(5) a significant part of a country's influence is drawn from the reputation of its goods, its industrial connections with other countries, and the capital it has available for investment, and trade finance is a critical component of this equation;

"(6) the growth in United States exports has increased the demand for financing from the Export-Import Bank of the United States;

"(7) during 1991, the value of exports assisted by the Export-Import Bank rose 28.7 percent, from \$9,700,000,000 to \$12,100,000,000, the highest level since 1981;

"(8) the Export-Import Bank used its entire budget authority provided for 1991, and still could not meet all of the demand for its financing assistance; and

"(9) accordingly, the charter of the Export-Import Bank, which is scheduled to expire on September 30, 1992, must be renewed in order that the Bank continue to arrange competitive and innovative financing for the foreign sales of United States exporters."

REPORT ON FINANCING OF SERVICES

Section 119 of Pub. L. 102-429 provided that:

"(a) REPORT.—Not later than 1 year after the date of enactment of this Act [Oct. 21, 1992], the Export-Import Bank of the United States (in this section referred to as the 'Bank') shall submit a report to the Committee on Banking, Finance and Urban Affairs and the Committee on Foreign Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate on ways of facilitating the export financing of high technology services.

"(b) CONTENTS.—The report required by subsection (a) shall include—

"(1) an analysis of the current export financing needs of firms dealing in high technology services;

"(2) an identification of the export financing support provided by commercial lenders to finance the sale of high technology services;

"(3) an identification of the official export credit programs in support of such exports of countries that are major participants in the Organization for Economic Cooperation and Development; and

"(4) a review of the programs of the Bank to determine how it can meet identified market needs of firms dealing in high technology services."

"(c) **DEFINITION.**—For purposes of this section, the term 'high technology services' means industries in which above average percentages of scientists and engineers are employed, and which have the highest direct research and development expenditures per dollar of sales, including—

- "(1) computer programming and software services;
- "(2) data processing services; and
- "(3) computer related services."

REPORT ON DEMAND FOR TRADE FINANCE FOR THE BALTIC STATES, THE INDEPENDENT STATES OF THE FORMER SOVIET UNION, AND CENTRAL AND EASTERN EUROPE

Section 120 of Pub. L. 102-429 provided that:

"(a) **FINDINGS.**—The Congress finds that—

"(1) United States export participation in the emerging markets in the independent States of the former Soviet Union, Central and Eastern Europe, and the Baltic States holds definite potential for preserving and creating jobs in the United States and strengthening the competitiveness of United States exports;

"(2) export assistance for United States goods destined for emerging republics is an investment in the development and establishment of their market economies, a critical element in maintaining existing United States businesses which export to the regions in which such republics are located, and a significant factor in the economic future of the United States and such republics;

"(3) the Export-Import Bank of the United States (in this section referred to as the 'Bank') has a unique opportunity to play a leading role in assisting United States exporters to participate in the rapidly changing and highly competitive markets in the independent States of the former Soviet Union, Central and Eastern Europe, and the Baltic States; and

"(4) it is in the interest of the United States for the Bank to—

"(A) monitor carefully the export assistance programs and terms offered by foreign governments for competitive exports; and

"(B) make every effort to offer United States business export assistance for transactions in the independent States of the former Soviet Union, Central and Eastern Europe, and the Baltic States, that is comparable to the assistance being provided by other governments.

"(b) **REPORT.**—Not later than 1 year after the date of enactment of this Act [Oct. 21, 1992], the Bank shall transmit to the Congress a report analyzing the present and future demand for loans, guarantees, and insurance for trade between the United States and the Baltic States, between the United States and the independent States of the former Soviet Union, and between the United States and Central and Eastern Europe, and shall make recommendations regarding the adequacy of financing for trade between the United States and such countries. As used in this section, the term 'independent States of the former Soviet Union' includes all successor states (other than the Baltic States) to the Soviet Union."

EXPORT-IMPORT PROGRAMS TO PEOPLE'S REPUBLIC OF CHINA PROHIBITED UNLESS CERTAIN CONDITIONS MET

Section 103 of Pub. L. 101-240 provided that:

"(a) Notwithstanding any other provision of law and subject to the provisions of subsections (b) and (c), the Export-Import Bank of the United States shall not finance any trade with, nor extend any loan, credit, credit guarantee, insurance or reinsurance to the People's Republic of China.

"(b) The prohibitions described in subsection (a) of this section shall not apply to food or agricultural commodities.

"(c) The President may waive the prohibitions in subsection (a) if he makes a report to Congress either—

"(1) that the Government of the People's Republic of China has made progress on a program of political reform throughout the country, as well as in Tibet, which includes—

"(A) lifting of martial law;

"(B) halting of executions and other reprisals against individuals for the nonviolent expression of their political beliefs;

"(C) release of political prisoners;

"(D) increased respect for internationally recognized human rights, including freedom of expression, the press, assembly, and association; and

"(E) permitting a freer flow of information, including an end to the jamming of Voice of America and greater access for foreign journalists; or

"(2) it is in the national interest of the United States to terminate a suspension under subsection (a)."

EXPORT-IMPORT BANK PROGRAMS FOR POLAND AND HUNGARY

Pub. L. 101-179, title III, § 303, Nov. 28, 1989, 103 Stat. 1312, provided that:

"(a) **AUTHORITY TO EXTEND CREDIT TO POLAND AND HUNGARY.**—Notwithstanding section 2(b)(2) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(b)(2)), the Export-Import Bank of the United States may guarantee, insure, finance, extend credit, and participate in the extension of credit in connection with the purchase or lease of any product by the Republic of Hungary or any agency or national thereof or by the Polish People's Republic or any agency or national thereof.

"(b) **PRIVATE FINANCIAL INTERMEDIARIES TO FACILITATE EXPORTS TO POLAND.**—Consistent with the provisions of the Export-Import Bank Act of 1945 (12 U.S.C. 635 and following), the Export-Import Bank of the United States shall work with private financial intermediaries in Poland to facilitate the export of goods and services to Poland."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 635a, 635g, 635i-5, 635j, 635m of this title; title 22 sections 2184, 2185, 2291c, 2357, 5096.

§ 635a. Management of Bank

[See main edition for text of (a) to (c)]

(d) **Advisory Committee; appointment; composition; meetings; advice to Bank; report to Congress**

(1)(A) There is established an Advisory Committee to consist of 15 members who shall be appointed by the Board of Directors on the recommendation of the President of the Bank.

[See main edition for text of (B), (2) to (4); (e)]

(As amended Oct. 21, 1992, Pub. L. 102-429, title I, § 113, 106 Stat. 2195.)

AMENDMENTS

1992—Subsec. (d)(1)(A). Pub. L. 102-429 substituted "15 members" for "twelve members".

COMPENSATION OF EMPLOYEES

Section 117 of Pub. L. 102-429 provided that:

"(a) **IN GENERAL.**—The Board of Directors of the Export-Import Bank of the United States may compensate not more than 35 employees of the Bank without regard to the provisions of chapter 51 or subchapter III or VIII of chapter 53 of title 5, United States Code.

"(b) **SUNSET.**—Effective 2 years after the date of enactment of this Act [Oct. 21, 1992], subsection (a) is hereby repealed.

"(c) **REPORT.**—Not later than 1 year after the date of enactment of this Act, the Export-Import Bank of the United States shall submit a report to the Congress on—

- "(1) the recruitment and employee retention problems of the Bank;
- "(2) any relief from such problems afforded by the Office of Personnel Management;
- "(3) any use of the authority provided in subsection (a); and
- "(4) the conclusions and recommendations of the Bank with respect to—
 - "(A) whether such problems have been satisfactorily addressed; and
 - "(B) whether or not the authority of subsection (a) should be extended."

REPORT ON REGIONAL OFFICES

Section 118 of Pub. L. 102-429 provided that: "Not later than 1 year after the date of enactment of this Act [Oct. 21, 1992], the Export-Import Bank of the United States shall submit a report to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate on the Bank's plan to establish and operate regional offices. In addition, the report shall consider the appropriateness of cooperating with other Federal agencies and State and local organizations in co-locating personnel of such agencies and organizations with personnel of the Bank in such regional offices."

§ 635b. Capitalization of Bank; method of capital stock payments; public-debt transactions; issuance of stock certificates

The Export-Import Bank of the United States shall have a capital stock of \$1,000,000,000 subscribed by the United States. Certificates evidencing stock ownership of the United States shall be issued by the Bank to the President of the United States, or to such other person or persons as the President may designate from time to time, to the extent of payments made for the capital stock of the Bank.

(As amended Oct. 21, 1992, Pub. L. 102-429, title I, § 121(b), 106 Stat. 2198.)

AMENDMENTS

1992—Pub. L. 102-429 inserted second sentence and struck out former second through last sentences which read as follows: "Payment for \$1,000,000 of such capital stock shall be made by the surrender to the Bank for cancellation of the common stock issued prior to July 31, 1945, by the Bank and purchased by the United States. Payment for \$174,000,000 of such capital stock shall be made by the surrender to the Bank for cancellation of the preferred stock heretofore issued by the Bank and purchased by the Reconstruction Finance Corporation. Payment for the \$825,000,000 balance of such capital stock shall be subject to call at any time in whole or in part by the Board of Directors of the Bank. For the purpose of making payments of such balance, the Secretary of the Treasury is authorized to use as a public-debt transaction the proceeds of any securities issued after July 31, 1945, under chapter 31 of title 31, and the purposes for which securities may be issued under that chapter are extended to include such purpose. Payment under this section of the subscription of the United States to the Bank and repayments thereof shall be treated as public-debt transactions of the United States. Certificates evidencing stock ownership of the United States shall be issued by the Bank to the President of the United States, or to such other person or persons as the President may designate from

time to time, to the extent of the common and preferred stock surrendered and other payments made for the capital stock of the Bank under this section."

§ 635c. Repealed. Pub. L. 102-429, title I, § 121(c)(1), Oct. 21, 1992, 106 Stat. 2199

Section, act July 31, 1945, ch. 341, § 5, 59 Stat. 528, related to reimbursement of Reconstruction Finance Corporation for cancellation of Bank stock, public debt transactions, and payment of accumulated dividends.

§ 635d. Issuance of debentures, bonds, etc.; obligations redeemable; payment of interest; obligations purchasable by Secretary of Treasury; public-debt transactions

[See main edition for text]

(July 31, 1945, ch. 341, § 5, formerly § 6, 59 Stat. 528; June 9, 1947, ch. 101, § 2, 61 Stat. 131; Oct. 3, 1951, ch. 445, § 1(a), 65 Stat. 387; Aug. 9, 1954, ch. 660, § 3(a), 68 Stat. 678; May 22, 1958, Pub. L. 85-424, § 1(1), 72 Stat. 133; Mar. 13, 1968, Pub. L. 90-267, § 1(a), 82 Stat. 47; Jan. 4, 1975, Pub. L. 93-646, § 7, 88 Stat. 2336; renumbered § 5, Oct. 21, 1992, Pub. L. 102-429, title I, § 121(c)(2), 106 Stat. 2199.)

PRIOR PROVISIONS

A prior section 5 of act July 31, 1945, ch. 341, was classified to section 635c of this title and was repealed by Pub. L. 102-429, title I, § 121(c)(1), Oct. 21, 1992, 106 Stat. 2199.

§ 635e. Aggregate loan, guarantee, and insurance authority

(a) **Limitation on outstanding amounts**

The Export-Import Bank of the United States shall not have outstanding at any one time loans, guaranties, and insurance in an aggregate amount in excess of \$75,000,000,000. All spending and credit authority provided under this subchapter shall be effective for any fiscal year only to such extent or in such amounts as are provided in appropriation Acts.

(b) **Presidential determination**

(1) **In general**

Not later than March 31 of each fiscal year, the President of the United States shall determine whether the authority available to the Bank for such fiscal year will be sufficient to meet the Bank's needs, particularly those needs arising from—

(A) increases in the level of exports unforeseen at the time of the original budget request for such fiscal year;

(B) any increased foreign export credit subsidies; or

(C) the lack of progress in negotiations to reduce or eliminate export credit subsidies.

(2) **Report**

Not later than April 15 of each year, the President of the United States shall transmit to the Congress a report on such determination.

(3) Request for legislation**(A) In general**

If the President of the United States finds that the amount of direct loan authority or guarantee authority available to the Bank for the fiscal year involved exceeds the amount which will be necessary to carry out the Bank's functions consistent with the availability of qualified applications and limitations imposed by law during such year, the President of the United States shall promptly transmit to the Congress a request for legislation to eliminate the amount of such excess direct loan, loan guarantee, or insurance authority.

(B) Continued availability of authority

The Bank shall continue to make remaining amounts of its authority available for the fiscal year involved, in accordance with its practices and the requirements of this subchapter, unless otherwise directed pursuant to law.

(July 31, 1945, ch. 341, § 6, formerly § 7, 59 Stat. 529; Oct. 3, 1951, ch. 445, § 1(b), 65 Stat. 367; May 21, 1953, ch. 64, § 2, 67 Stat. 28; Aug. 9, 1954, ch. 660, § 3(b), 68 Stat. 678; May 22, 1958, Pub. L. 85-424, § 1(2), 72 Stat. 133; Aug. 20, 1963, Pub. L. 88-101, § 1(b), 77 Stat. 128; Mar. 13, 1968, Pub. L. 90-267, § 1(a), (e), 82 Stat. 47, 49; Aug. 17, 1971, Pub. L. 92-126, § 1(b)(3), 85 Stat. 345; Jan. 4, 1975, Pub. L. 93-646, § 8, 88 Stat. 2336; Nov. 10, 1978, Pub. L. 95-630, title XIX, §§ 1905, 1914, 92 Stat. 3725, 3727; Aug. 13, 1981, Pub. L. 97-35, title III, § 381(a), 95 Stat. 431; Nov. 30, 1983, Pub. L. 98-181, title VI, §§ 615, 620(d), 97 Stat. 1256, 1261; Oct. 15, 1986, Pub. L. 99-472, §§ 13, 17, 100 Stat. 1204, 1205; Oct. 28, 1991, Pub. L. 102-145, § 121(1), as added Apr. 1, 1992, Pub. L. 102-266, § 102, 106 Stat. 95; renumbered § 6 and amended Oct. 21, 1992, Pub. L. 102-429, title I, §§ 109(b), 121(c)(2), 106 Stat. 2193, 2199.)

PRIOR PROVISIONS

A prior section 6 of act July 31, 1945, ch. 341, was renumbered section 5 and is classified to section 635d of this title.

AMENDMENTS

1992—Pub. L. 102-429, § 109(b), inserted section catchline, redesignated former subsec. (a)(1) as subsec. (a), inserted subsec. heading, substituted "\$75,000,000,000" for "\$40,000,000,000", redesignated former subsec. (a)(2) as subsec. (b), redesignated former subpar. (A)(i) as par. (1), former subcls. (I) to (III) as subpars. (A) to (C), respectively, former subpar. (A)(ii) as par. (2), former subpar. (B) as par. (3), and former cls. (i) and (ii) as subpars. (A) and (B), respectively, inserted headings for subsec. (b), pars. (1) to (3), and subpars. (A) and (B) of par. (3), and struck out former subsec. (a)(3) which read as follows: "AUTHORIZATION OF APPROPRIATION.—There are authorized to be appropriated \$145,259,000 for fiscal year 1987 to cover the subsidy cost of new direct loans obligated by the Bank in that fiscal year. Any amounts appropriated under this paragraph shall be permanent additions to the capital and reserves of the Bank."

1991—Subsec. (b), Pub. L. 102-145, § 121(1), as added by Pub. L. 102-266, struck out subsec. (b) which read as follows: "After January 4, 1975, the Bank shall not approve any loans or financial guarantees, or combination thereof, in connection with exports to the Union

of Soviet Socialist Republics in an aggregate amount in excess of \$300,000,000. No such loan or financial guarantee, or combination thereof, shall be for the purchase, lease, or procurement of any product or service for production (including processing and distribution) of fossil fuel energy resources. Not more than \$40,000,000 of such aggregate amount shall be for the purchase, lease, or procurement of any product or service which involves research or exploration of fossil fuel energy resources. The President may establish a limitation in excess of \$300,000,000 if the President determines that such higher limitation is in the national interest and if the President reports such determination to the Congress together with the reasons therefor, including the amount of such proposed increase which would be available for the export of products and services for research, exploration, and production (including processing and distribution) of fossil fuel energy resources in the Union of Soviet Socialist Republics, and if, after the receipt of such report together with the reasons, the Congress adopts a concurrent resolution approving such determination."

§ 635f. Termination date of Bank's functions; exceptions; liquidation

Export-Import Bank of the United States shall continue to exercise its functions in connection with and in furtherance of its objects and purposes until the close of business on September 30, 1997, but the provisions of this section shall not be construed as preventing the bank from acquiring obligations prior to such date which mature subsequent to such date or from assuming prior to such date liability as guarantor, endorser, or acceptor of obligations which mature subsequent to such date or from issuing, either prior or subsequent to such date, for purchase by the Secretary of the Treasury or any other purchasers, its notes, debentures, bonds, or other obligations which mature subsequent to such date or from continuing as a corporate agency of the United States and exercising any of its functions subsequent to such date for purposes of orderly liquidation, including the administration of its assets and the collection of any obligations held by the bank.

(July 31, 1945, ch. 341, § 7, formerly § 8, 59 Stat. 529; June 9, 1947, ch. 101, § 3, 61 Stat. 131; Oct. 3, 1951, ch. 445, § 1(c), 65 Stat. 367; June 17, 1957, Pub. L. 85-55, 71 Stat. 82; Aug. 20, 1963, Pub. L. 88-101, § 2, 77 Stat. 128; Mar. 13, 1968, Pub. L. 90-267, § 1(a), (f), 82 Stat. 47, 49; Aug. 17, 1971, Pub. L. 92-126, § 1(b)(4), 85 Stat. 345; July 4, 1974, Pub. L. 93-331, 88 Stat. 289; Aug. 14, 1974, Pub. L. 93-374, 88 Stat. 445; Sept. 30, 1974, Pub. L. 93-425, 88 Stat. 1166; Oct. 18, 1974, Pub. L. 93-450, 88 Stat. 1368; Jan. 4, 1975, Pub. L. 93-646, § 9, 88 Stat. 2336; Oct. 26, 1977, Pub. L. 95-143, § 4, 91 Stat. 1211; Sept. 30, 1978, Pub. L. 95-407, 92 Stat. 882; Nov. 10, 1978, Pub. L. 95-630, title XIX, § 1906, 92 Stat. 3725; Oct. 1, 1983, Pub. L. 98-109, § 6, 97 Stat. 746; Nov. 1, 1983, Pub. L. 98-143, 97 Stat. 916; Nov. 30, 1983, Pub. L. 98-181, title VI, § 611, 97 Stat. 1254; Oct. 15, 1986, Pub. L. 99-472, § 14, 100 Stat. 1204; renumbered § 7 and amended Oct. 21, 1992, Pub. L. 102-429, title I, §§ 102, 121(c)(2), 106 Stat. 2167, 2199.)

PRIOR PROVISIONS

A prior section 7 of act July 31, 1945, ch. 341, was renumbered section 6 and is classified to section 635e of this title.

AMENDMENTS

1992—Pub. L. 102-429, § 102, substituted “1997” for “1992”.

§ 635g. Report to Congress; time for submission; contents

[See main edition for text]

(July 31, 1945, ch. 341, § 8, formerly § 9, 59 Stat. 529; Mar. 13, 1968, Pub. L. 90-267, § 1(a), 82 Stat. 47; Jan. 4, 1975, Pub. L. 93-646, § 10, 88 Stat. 2336; Nov. 10, 1978, Pub. L. 95-630, title XIX, § 1907(b), 92 Stat. 3725; Nov. 30, 1983, Pub. L. 98-181, title VI, §§ 618(b), 623, 97 Stat. 1259, 1262; Oct. 15, 1986, Pub. L. 99-472, § 20(b), (c), 100 Stat. 1209, 1210; renumbered § 8, Oct. 21, 1992, Pub. L. 102-429, title I, § 121(c)(2), 106 Stat. 2199.)

PRIOR PROVISIONS

A prior section 8 of act July 31, 1945, ch. 341, was renumbered section 7 and is classified to section 635f of this title.

FINANCING FOR RENEWABLE ENERGY PROJECTS

Pub. L. 101-167, title V, § 534(d), Nov. 21, 1989, 103 Stat. 1231, provided that:

“(1) Of the financing provided by the Export-Import Bank that is utilized for the support of exports for the energy sector, the Bank shall seek to provide not less than 5 per centum of such financing for renewable energy projects.

“(2) The Export-Import Bank shall take all appropriate steps to finance information exchanges and training whose purpose it is to help link United States producers in the renewable energy sector with assistance programs and potential foreign customers.

“(3) Beginning on April 15, 1990, the Chairman of the Export-Import Bank shall submit an annual report to the Committees on Appropriations on the Bank’s implementation of this subsection.”

§ 635h. Exemption from prohibition of section 955 of title 18

[See main edition for text]

(July 31, 1945, ch. 341, § 9, formerly § 11, 59 Stat. 529; Sept. 3, 1954, ch. 1263, § 29, 68 Stat. 1237; Mar. 13, 1968, Pub. L. 90-267, § 1(a), 82 Stat. 47; renumbered § 9, Oct. 21, 1992, Pub. L. 102-429, title I, § 121(c)(3), 106 Stat. 2199.)

PRIOR PROVISIONS

A prior section 9 of act July 31, 1945, ch. 341, was renumbered section 8 and is classified to section 635g of this title.

§§ 635i-1 to 635i-2. Repealed. Pub. L. 102-429, title 1, § 121(c)(1), Oct. 21, 1992, 106 Stat. 2199

Section 635i, act July 31, 1945, ch. 341, § 12, as added June 9, 1947, ch. 101, § 4, 01 Stat. 131; amended Mar. 13, 1968, Pub. L. 90-267, § 1(a), 82 Stat. 47, related to assumption of rights and liabilities of existing Bank by Export-Import Bank of the United States including transfer of funds, property, personnel, etc.

Section 635i-1, act July 31, 1945, ch. 341, § 13, as added Nov. 30, 1983, Pub. L. 98-181, title VI, § 619(a), 97 Stat. 1280, related to establishment of special facilities in support of export transactions to Brazil and Mexico.

Section 635i-2, act July 31, 1945, ch. 341, § 14, as added Nov. 30, 1983, Pub. L. 98-181, title VI, § 621, 97 Stat. 1281, related to notification to Congress of decrease in capital level of Bank.

§ 635i-3. Tied Aid Credit Fund and program

(a) Findings

The Congress finds that—

(1) tied aid and partially untied aid credits offered by other countries are a predatory method of financing exports because of their market-distorting effects;

[See main edition for text of (2) to (4)]

(5) there should be established in the Bank a tied aid program to target the export markets of those countries which make extensive use of tied aid or partially untied aid credits for commercial advantage for the purposes of—

(A) enforcing compliance with the existing Arrangement restricting the use of tied aid and partially untied aid credits for commercial purposes; and

(B) facilitating efforts to negotiate, establish, and enforce new or revised comprehensive international arrangements effectively restricting the use of tied aid and partially untied aid credits for commercial purposes;

and such program should be used aggressively for such purposes.

(b) Establishment of tied aid credit program

(1) In general

The Bank shall establish a tied aid credit program under which grants shall be made from funds available in the Tied Aid Credit Fund established under subsection (c) of this section—

(A) to supplement the financing of a United States export when there is a reasonable expectation that predatory financing will be provided by another country for a sale by a competitor of the United States exporter with respect to such export and with special attention to matching tied aid and partially untied aid credits extended by other governments—

(i) in violation of the Arrangement; or

(ii) in cases in which the Bank determines that United States trade or economic interests justify the matching of tied aid credits extended in compliance with the Arrangement, including grandfathered cases;

(B) to supplement the financing of United States exports to foreign markets which are actual or potential export markets for any country which the Bank determines—

(i) engages in predatory official export financing through the use of tied aid or partially untied aid credits, and impedes negotiations or violates agreements on tied aid to eliminate the use of such credits for commercial purposes; or

(ii) engages in predatory financing practices that seek to circumvent international agreements on tied aid; or

[See main edition for text of (C)]

(2) Administration of program

The tied aid credit program shall be administered by the Bank—

(A) in consultation with the Secretary and in accordance with the Secretary's recommendations on how such credits could be used most effectively and efficiently to carry out the purposes described in subsection (a)(5) of this section;

(B) in cooperation with United States exporters and private financial institutions or entities, and in consultation with other Federal agencies, as appropriate; and

[See main edition for text of (C), (3)]

(4) Information on countries which engage in official predatory export financing and impede negotiations

In order to assist the Bank to make the most efficient use of funds available for supplemental financing under paragraph (1)(B), the United States Trade Representative and the Secretary of Commerce may provide information on principal sectors and key markets of countries described in paragraph (1)(B) to the Bank, the Secretary, and the National Advisory Council on International Monetary and Financial Policies. The Bank shall also request and take into consideration the views of the private sector on principal sectors and key markets of countries described in paragraph (1)(B).

(c) Tied Aid Credit Fund

[See main edition for text of (1)]

(2) Expenditures from Fund

Amounts in the Fund shall be available for grants made by the Bank under the tied aid credit program established pursuant to subsection (b) of this section and to reimburse the Bank for the amount equal to the concessionality level of any tied aid credits authorized by the Bank through September 30, 1995.

[See main edition for text of (d)]

(e) Authorization

There are authorized to be appropriated to the Fund \$500,000,000 for each of fiscal years 1993, 1994, and 1995. Such sums are authorized to remain available until expended.

[See main edition for text of (f)]

(g) Report to Congress

(1) In general

On or before October 15, 1992, and every 6 months thereafter, the Bank, in consultation with the Secretary, shall submit a report on tied aid credits to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives.

(2) Contents of reports

Each report required under paragraph (1) shall contain a description of—

(A) the implementation of the Arrangement restricting tied aid and partially untied aid credits for commercial purposes, including the operation of notification and consultation procedures;

(B) all principal offers of tied aid credit financing by foreign countries during the previous 6-month period, including all offers notified by countries participating in the Arrangement, and in particular—

(i) offers grandfathered under the Arrangement; and

(ii) notifications of exceptions under the Arrangement;

(C) any use by the Bank of the Tied Aid Credit Fund to match specific offers, including those that are grandfathered or exceptions under the Arrangement; and

(D) other actions by the United States Government to combat predatory financing practices by foreign governments, including additional negotiations among participating governments in the Arrangement.

[See main edition for text of (3)]

(h) Definitions

For purposes of this section, the following definitions shall apply:

[See main edition for text of (1) to (5)]

(6) Offers grandfathered under the Arrangement

The term "offers grandfathered under the Arrangement" means—

(A) financing offers made or lines of credit extended on or before February 15, 1992; or

(B) financing offers extended for subloans under lines of credit referred to in subparagraph (A) made on or before August 15, 1992, or, in the case of Mexico, on or before December 31, 1992.

(July 31, 1945, ch. 341, § 10, formerly § 15, as added Oct. 15, 1986, Pub. L. 99-472, § 19, 100 Stat. 1205; amended Dec. 29, 1987, Pub. L. 100-217, 101 Stat. 1454; Aug. 23, 1988, Pub. L. 100-418, title III, § 3302(b), 102 Stat. 1383; Dec. 19, 1989, Pub. L. 101-240, title I, § 101(b), 103 Stat. 2493; Nov. 5, 1990, Pub. L. 101-513, title V, § 562(d), 104 Stat. 2036; renumbered § 10 and amended Oct. 21, 1992, Pub. L. 102-429, title I, §§ 103, 121(c)(4), 106 Stat. 2167, 2199.)

PRIOR PROVISIONS

A prior section 10 of act July 31, 1945, ch. 341, repealed section 713b of Title 15, Commerce and Trade.

AMENDMENTS

1992—Subsec. (a). Pub. L. 102-429, § 103(c)(1), (2), substituted "predatory" for "predacious" in par. (1), struck out "temporary" before "tied aid program" in introductory provisions of par. (5), and substituted "existing Arrangement" for "existing arrangement" in par. (5)(A).

Subsec. (b)(1). Pub. L. 102-429, § 103(c)(3)(A), substituted "The" for "To carry out the purposes of subsection (a)(5) of this section, the".

Subsec. (b)(1)(A). Pub. L. 102-429, § 103(c)(1), (3)(B), substituted "predatory" for "predacious" and inserted before semicolon "and with special attention to matching tied aid and partially untied aid credits ex-

tended by other governments—" followed by cls. (1) and (11).

Subsec. (b)(1)(B). Pub. L. 102-429, § 103(c)(1), (3)(C), in cl. (1) substituted "predatory" for "predacious" and "partially untied aid credits, and impedes negotiations or violates agreements on tied aid to eliminate the use of such credits for commercial purposes; or" for "partially untied aid credits; and", added cl. (11), and struck out former cl. (11) which read as follows: "impedes negotiations to eliminate the use of such credits for commercial purposes; or".

Subsec. (b)(2). Pub. L. 102-429, § 103(c)(4), (5), struck out "of the Treasury" after "Secretary" in subpar. (A) and substituted "United States exporters and private financial institutions or entities, and in consultation with other Federal agencies" for "private financial institutions or entities" in subpar. (B).

Subsec. (b)(4). Pub. L. 102-429, § 103(c)(6), inserted at end "The Bank shall also request and take into consideration the views of the private sector on principal sectors and key markets of countries described in paragraph (1)(B)."

Subsec. (c)(2). Pub. L. 102-429, § 103(a), substituted "September 30, 1995" for "fiscal year 1992".

Subsec. (e). Pub. L. 102-429, § 103(b), amended subsec. (e) generally, substituting present provisions for provisions which authorized appropriations for fiscal years 1987 through 1992 and provided authority for Presidential rescission.

Subsec. (g)(1). Pub. L. 102-429, § 103(c)(7), amended par. (1) generally. Prior to amendment, par. (1) read as follows: "REPORT REQUIRED.—Before the end of the 6-month period beginning on October 15, 1986, and every six months thereafter, the Bank, in consultation with the Secretary, shall prepare and transmit a report on tied aid credits to the President of the Senate and the Speaker of the House of Representatives."

Subsec. (g)(2). Pub. L. 102-429, § 103(c)(7), amended par. (2) generally. Prior to amendment, par. (2) read as follows: "CONTENTS OF REPORT.—Each report required by paragraph (1) shall contain a description of—

"(A) the principal offers of predacious financing by foreign countries during the course of the previous 6 months;

"(B) steps taken by the United States to combat specific predacious financing practices of foreign countries;

"(C) any use by the Bank of the Tied Aid Credit Fund to match specific predacious financing practices of foreign countries and to initiate tied aid credit offers;

"(D) any additional steps the United States may take in the future to discourage use of predacious financing practices; and

"(E) the progress achieved by negotiations conducted to carry out the purposes described in subsection (a)(5) of this section."

Subsec. (h). Pub. L. 102-429, § 103(c)(8), substituted "For purposes of this section, the following definitions shall apply:" for "For the purpose of this section—" in introductory provisions and added par. (6).

1990—Subsec. (c)(2). Pub. L. 101-513, § 562(d)(2), substituted "1992" for "1991".

Subsec. (e)(1). Pub. L. 101-513, § 562(d)(1), substituted "for fiscal year 1990, \$300,000,000, and for each of fiscal years 1991 and 1992, \$500,000,000" for "and for fiscal years 1990 and 1991, \$300,000,000".

1989—Subsec. (a)(5). Pub. L. 101-240, § 101(b)(1), substituted "for the purposes of—", pars. (A) and (B), and concluding provisions for "for the purpose of facilitating the negotiation of a comprehensive international arrangement restricting the use of tied aid and partially untied aid credits for commercial purposes, and such program should be aggressively used until such an arrangement is established."

Subsec. (b)(1). Pub. L. 101-240, § 101(b)(2), inserted introductory provisions and struck out former introductory provisions which read as follows: "For the purpose of facilitating the negotiation of a compre-

hensive international arrangement restricting the use of tied aid and partially untied aid credits for commercial purposes, the Bank shall establish a tied aid credit program under which grants shall be made from funds available in the Tied Aid Credit Fund established under subsection (c) of this section—".

Subsec. (b)(2)(A). Pub. L. 101-240, § 101(b)(3), substituted "carry out the purposes described in subsection (a)(5) of this section" for "promote the negotiation of a comprehensive international arrangement restricting the use of tied aid and partially untied aid credits for commercial purposes".

Subsec. (c)(2). Pub. L. 101-240, § 101(b)(4), substituted "amount equal to the concessionality level" for "cost" and "through fiscal year 1991" for "during fiscal years 1986, 1987, 1988, and 1989".

Subsec. (e)(1). Pub. L. 101-240, § 101(b)(7), which directed the insertion of ", and for fiscal years 1990, 1991, and 1992, \$200,000,000" after "\$300,000,000" was not executed in view of earlier amendment by section 101(b)(5) of Pub. L. 101-240, which inserted ", and for fiscal years 1990 and 1991, \$300,000,000" after "\$300,000,000", and in view of Senate floor amendment of the bill which added the authorization contained in section 101(b)(5) and was intended to replace the authorization now appearing in section 101(b)(7). See Cong. Rec., Vol. 135, pt. 22, pp. 31199, 31203.

Pub. L. 101-240, § 101(b)(5), inserted ", and for fiscal years 1990 and 1991, \$300,000,000" after "\$300,000,000".

Subsec. (g)(2)(E). Pub. L. 101-240, § 101(b)(6), amended subpar. (E) generally. Prior to amendment, subpar. (E) read as follows: "any progress achieved in negotiations to establish a comprehensive international arrangement restricting the use of tied aid and partially untied credits for commercial purposes."

§ 6351-4. Repealed. Pub. L. 102-429, title I, § 121(c)(1), Oct. 21, 1992, 106 Stat. 2199

Section, act July 31, 1945, ch. 341, § 16, as added Oct. 21, 1986, Pub. L. 99-509, title II, § 2002, 100 Stat. 1880, related to procedures and terms for sale of Bank loans to public.

§ 6351-5. environmental policy and procedures

(a) Environmental effects consideration

(1) In general

Consistent with the objectives of section 635(b)(1)(A) of this title, the Bank shall establish procedures to take into account the potential beneficial and adverse environmental effects of goods and services for which support is requested under its direct lending and guarantee programs. Such procedures shall apply to any transaction involving a project—

(A) for which long-term support of \$10,000,000 or more is requested from the Bank;

(B) for which the Bank's support would be critical to its implementation; and

(C) which may have significant environmental effects upon the global commons or any country not participating in the project, or may produce an emission, an effluent, or a principal product that is prohibited or strictly regulated pursuant to Federal environmental law.

(2) Authority to withhold financing

The procedures established under paragraph (1) shall permit the Board of Directors, in its judgment, to withhold financing from a

project for environmental reasons or to approve financing after considering the potential environmental effects of a project.

(b) Use of Bank programs to encourage certain exports

The Bank shall encourage the use of its programs to support the export of goods and services that have beneficial effects on the environment or mitigate potential adverse environmental effects. The Board of Directors shall name an officer of the Bank to advise the Board on ways that the Bank's programs can be used to support the export of such goods and services. The officer shall act as liaison between the Bank and other Federal Government agencies, including the agencies whose representatives are members of the Environmental Trade Promotion Working Group of the Trade Promotion Coordinating Committee, with respect to overall United States Government policy on the environment.

(c) Inclusion in report to Congress

The Bank shall provide in its annual report to the Congress a summary of its activities under subsections (a) and (b) of this section.

(d) Interpretation

Nothing in this section shall be construed to create any cause of action.

(July 31, 1945, ch. 341, § 11, formerly § 17, as added and renumbered § 11, Oct. 21, 1992, Pub. L. 102-429, title I, §§ 106, 121(c)(5), 106 Stat. 2189, 2199.)

PRIOR PROVISIONS

A prior section 11 of act July 31, 1945, ch. 341, was renumbered section 9 and is classified to section 635h of this title.

§ 6351-6. Debt reduction; Enterprise for the Americas Initiative

(a) Definitions

For purposes of this section—

(1) the term “eligible country” means a country designated by the President in accordance with section ¹ (b) of this section;

(2) the term “Facility” means the entity established in the Department of the Treasury by section 1738 of title 7; and

(3) the term “IMF” means the International Monetary Fund.

(b) Eligibility for benefits under the Facility

(1) Requirements

To be eligible for benefits from the Facility under this section, a country must—

(A) be a Latin American or Caribbean country;

(B) have in effect, have received approval for, or, as appropriate in exceptional circumstances, be making significant progress toward—

(i) an IMF standby arrangement, extended IMF arrangement, or an arrangement under the structural adjustment facility or enhanced structural adjustment facility or, in exceptional circumstances,

an IMF monitored program or its equivalent; and

(ii) as appropriate, structural or sectoral adjustment loans from the International Bank for Reconstruction and Development or the International Development Association;

(C) have put in place major investment reforms in conjunction with an Inter-American Development Bank loan or otherwise be implementing, or making significant progress toward, an open investment regime; and

(D) if appropriate, have agreed with its commercial bank lenders on a satisfactory financing program, including, as appropriate, debt or debt service reduction.

(2) Eligibility determinations

The President shall determine whether a country is an eligible country for purposes of paragraph (1).

(c) Loans eligible for sale, reduction, or cancellation

(1) Authority to sell, reduce, or cancel certain loans

Notwithstanding any other provision of law, the President may, in accordance with this section, sell to any eligible purchaser any loan or portion thereof made before January 1, 1992, to any eligible country or any agency thereof pursuant to this subchapter, or, on receipt of payment from an eligible purchaser, reduce or cancel such loan or portion thereof, only for the purpose of facilitating—

(A) debt-for-equity swaps, debt-for-development swaps, or debt-for-nature swaps; or

(B) a debt buy-back by an eligible country of its own qualified debt, only if the eligible country uses an additional amount of the local currency of the eligible country, equal to not less than 40 percent of the price paid for such debt by such eligible country, or the difference between the price paid for such debt and the face value of such debt, to support activities that link conservation and sustainable use of natural resources with local community development, and child survival and other child development activities, in a manner consistent with sections 1738f through 1738k of title 7,

if the sale, reduction, or cancellation would not contravene any term or condition of any prior agreement relating to such loan.

(2) Terms and conditions

Notwithstanding any other provision of law, the President shall, in accordance with this section, establish the terms and conditions under which loans may be sold, reduced, or canceled pursuant to this section.

(3) Treatment under securities laws

The filing of a registration statement under the Securities Act of 1933 [15 U.S.C. 77a et seq.] shall not be required with respect to the sale or offer for sale by the Bank of a loan or any interest therein pursuant to this section. For purposes of the Securities Act of 1933, the Bank shall not be deemed to be an issuer or underwriter with respect to any subse-

¹ So in original. Probably should be “subsection”.

quent sale or other disposition of such loan (or any interest therein) or any security received by an eligible purchaser pursuant to any debt-for-equity swap, debt-for-development swap, or debt-for-nature swap.

(4) Administration

The Facility shall notify the Bank of purchasers that the President has determined to be eligible, and shall direct the Bank to carry out the sale, reduction, or cancellation of a loan pursuant to this section. The Bank shall make an adjustment in its accounts to reflect the sale, reduction, or cancellation.

(5) Limitations

The authorities of this subsection may be exercised only to such extent as provided for in advance in appropriations Acts, as necessary to implement the Federal Credit Reform Act of 1990 [2 U.S.C. 661 et seq.].

(d) Deposit of proceeds

The proceeds from the sale, reduction, or cancellation of any loan sold, reduced, or canceled pursuant to this section shall be deposited in the United States Government account or accounts established for the repayment of such loan.

(e) Eligible purchasers

A loan may be sold pursuant to subsection (c)(1)(A) of this section only to a purchaser who presents plans satisfactory to the President for using the loan for the purpose of engaging in debt-for-equity swaps, debt-for-development swaps, or debt-for-nature swaps.

(f) Debtor consultation

Before the sale to any eligible purchaser, or any reduction or cancellation pursuant to this section, of any loan made to an eligible country, the President shall consult with the country concerning the amount of loans to be sold, reduced, or canceled and their uses for debt-for-equity swaps, debt-for-development swaps, or debt-for-nature swaps.

(g) Authorization of appropriations

For the sale, reduction, and cancellation of loans or portions thereof pursuant to this section, there are authorized to be appropriated to the President such sums as may be necessary, which are authorized to remain available until expended.

(July 31, 1945, ch. 341, § 12, formerly § 18, as added and renumbered § 12, Oct. 21, 1992, Pub. L. 102-429, title I, §§ 108, 121(c)(6), 106 Stat. 2191, 2199.)

REFERENCES IN TEXT

The Securities Act of 1933, referred to in subsec. (c)(3), is title I of act May 27, 1933, ch. 38, 48 Stat. 74, as amended, which is classified generally to subchapter I (§ 77a et seq.) of chapter 2A of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see section 77a of Title 15 and Tables.

The Federal Credit Reform Act of 1990, referred to in subsec. (c)(5), is title V of Pub. L. 93-344, as added Pub. L. 101-508, title XIII, § 13201(a), Nov. 5, 1990, 104 Stat. 1388-609, which is classified generally to subchapter III (§ 661 et seq.) of chapter 17A of Title 2, The Congress. For complete classification of this Act to the Code, see Short Title of 1990 Amendment note set out under section 621 of Title 2 and Tables.

PRIOR PROVISIONS

A prior section 12 of act July 31, 1945, ch. 341, was classified to section 6351 of this title and was repealed by Pub. L. 102-429, title I, § 121(c)(1), Oct. 21, 1992, 106 Stat. 2199.

§ 6351-7. Cooperation on export financing programs

The Bank shall, subject to appropriate memoranda of understanding—

(1) provide complete and current information on all of its programs and financing practices to—

(A) the Small Business Administration and other Federal agencies involved in promoting exports and marketing export financing programs; and

(B) State and local export financing organizations that indicate a desire to participate in export promotion; and

(2) consistent with the provisions of section 4721(f)(2) of title 15, undertake a program to provide training for personnel designated in such memoranda with respect to such financing programs.

(July 31, 1945, ch. 341, § 13, formerly § 19, as added and renumbered § 13, Oct. 21, 1992, Pub. L. 102-429, title I, §§ 115, 121(c)(7), 106 Stat. 2196, 2199.)

PRIOR PROVISIONS

A prior section 13 of act July 31, 1945, ch. 341, was classified to section 6351-1 of this title and was repealed by Pub. L. 102-429, title I, § 121(c)(1), Oct. 21, 1992, 106 Stat. 2199.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 15 section 4721.

SUBCHAPTER III—TIED AID CREDIT EXPORT SUBSIDIES

§ 635q. Establishment of tied aid credit program in United States Export-Import Bank

(a) Establishment and elements of program; cooperation with Trade and Development Agency and private institutions and entities

[See main edition for text of (1)]

(2) The program shall be carried out in cooperation with the Trade and Development Agency and with private financial institutions or entities, as appropriate.

(3) The program may include—

(A) the combined use of the credits, loans, or guarantees offered by the Export-Import Bank of the United States with concessional financing or grants made available under section 635r(d) of this title, by methods including the blending of the financing of, or parallel financing by, the Bank and the Trade and Development Agency; and

[See main edition for text of (B); (b) to (d)]

(As amended Pub. L. 102-549, title II, § 202(c)(1), Oct. 28, 1992, 106 Stat. 3658.)

AMENDMENTS

1992—Subsec. (a)(2), (3)(A). Pub. L. 102-549 substituted "Development Agency" for "Development Program".

§ 635r. Establishment of tied aid credit program administered by Trade and Development Agency

(a) Establishment and elements of program

The Director of the Trade and Development Agency shall carry out a program of tied aid credits for United States exports. The program shall be carried out in cooperation with the Export-Import Bank of the United States and with private financial institutions or entities, as appropriate. The program may include—

(1) the combined use of the credits, loans, or guarantees offered by the Bank with concessional financing or grants made available under subsection (d) of this section, by methods including the blending of the financing of, or parallel financing by, the Bank and the Trade and Development Agency; and

(2) the combination of concessional financing or grants made available under subsection (d) of this section with financing offered by private financial institutions or entities, by methods including the blending of the financing of, or parallel financing by, the Trade and Development Agency and private institutions or entities.

[See main edition for text of (b)]

(c) Limitation on use of Agency funds; authorization for establishment of fund

[See main edition for text of (1)]

(2) The Director of the Trade and Development Agency is authorized to establish a fund, as necessary, for carrying out a tied aid credit financing program as described in this section.

(d) Use of Economic Support Funds

Funds available to carry out chapter 4 of part II of the Foreign Assistance Act of 1961 [22 U.S.C. 2346 et seq.] may be used by the Director of the Trade and Development Agency, with the concurrence of the Secretary of State (as provided under section 531 of the Foreign Assistance Act of 1961 [22 U.S.C. 2346]), for the purposes for which funds made available under this subsection are authorized to be used in section 635q of this title and this section. The Secretary of State shall exercise his authority in cooperation with the Administrator of the Agency for International Development. Funds made available pursuant to this subsection may be used to finance a tied aid credit activity in any country eligible for tied aid credits under this subchapter.

(As amended Pub. L. 102-549, title II, § 202(c), Oct. 28, 1992, 106 Stat. 3658.)

AMENDMENTS

1992—Pub. L. 102-549 substituted "Development Agency" for "Development Program" in section catchline and wherever appearing in subssecs. (a), (c), and (d).

§ 635s. Implementation

[See main edition for text of (a)]

(b) The Trade and Development Agency shall be represented at any meetings of the National Advisory Council on International Monetary and Financial Policies for discussion of tied aid credit matters, and the representative of the Trade and Development Agency at any such meeting shall have the right to vote on any decisions of the Advisory Council relating to tied aid credit matters.

(As amended Pub. L. 102-549, title II, § 202(c)(1), Oct. 28, 1992, 106 Stat. 3658.)

AMENDMENTS

1992—Subsec. (b). Pub. L. 102-549 substituted "Development Agency" for "Development Program" in two places.

CHAPTER 11—FEDERAL HOME LOAN BANKS

Sec.

1422a. Federal Housing Finance Board.

(a) Establishment.

(b) Management.

(c) Chairperson; transitional provisions.

(d) Vacancies.

1422b. Powers and duties.

(a) General powers.

(b) Staff.

(c) Receipts of Board.

(d) Annual report.

1425 to 1425b. Repealed.

1428a. Repealed.

1437. Repealed.

1439, 1439-1. Repealed.

1441a. Thrift Depositor Protection Oversight Board and Resolution Trust Corporation.

(a) Thrift Depositor Protection Oversight Board established.

(b) Resolution Trust Corporation established.

(c) Disposition of eligible residential properties.

(d) National and regional advisory boards.

(e) Institutions organized by Corporation.

(f) Limitation on certain Corporation activities.

(g) Exemption from State and local taxation.

(h) Guarantees of FSLIC.

(i) Funding.

(j) Maximum amount limitations on outstanding obligations.

(k) Reporting and disclosure obligations.

(l) Power to remove; jurisdiction.

(m) Termination.

(n) Conflict of interest.

(o) Status of employees.

(p) Management enhancement goals.

(q) RTC, Thrift Depositor Protection Oversight Board, and RTC contractor employee protection remedy.

(r) Review and evaluation procedure for contracts.

(s) Acquisition of branch facilities in minority neighborhoods.

(t) Assistance under circumstances for acquisition of majority-owned institutions.

(u) Minority interim capital assistance program.

(v) Continuation of obligation to provide services.

1441a-1. Definitions.